

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN ALLEN MAZURAK,

Plaintiff,

2:03-cv-2114-GEB-GGH-P

vs.

CA. DEPT. OF JUSTICE, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On August 7, 2006, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Defendants have filed objections to the findings and recommendations to which Plaintiff filed a reply. Defendants' objections seek more relief than they sought in their motion. Specifically, Defendants' motion challenged Plaintiff's prayer for an injunction in which Plaintiff seeks an order compelling Defendants to "correct/purge erroneous records." (Motion at 3.) Defendants argued Plaintiff has no constitutional basis for this prayer, but even if he does, Plaintiff "cannot

1 prove the required irreparable injury, and the court should discretionarily deny equitable relief
2 because [Plaintiff] ha[s] an adequate remedy at California law which [has] not [been] exhausted.”
3 (Id.) Whereas in their objections, Defendants argue a contrary position on whether Plaintiff
4 needs to exhaust state remedies.

5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-
6 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire
7 file, the court finds the findings and recommendations to be supported by the record and by
8 proper analysis.

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10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The findings and recommendations filed August 7, 2006, are adopted in full;
12 2. Plaintiff’s September 14, 2005, motion for permanent injunction is denied; and
13 3. Defendants’ October 20, 2005, motion for summary judgment is granted, and
14 this matter is dismissed.¹

15 Dated: September 19, 2006

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17 /s/ Garland E. Burrell, Jr.
18 GARLAND E. BURRELL, JR.
19 United States District Judge
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25 ¹ Dismissal, but not judgment, is appropriate in a case where the court has found that the
26 matter before it is not yet ripe for adjudication, which implicates subject matter jurisdiction.
United States v. Weber, 451 F.3d 552, 556 (9th Cir. 2006).